

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Tribal Welfare Department – Appeal Petition filed by Sri Ch. Appa Rao, S/o late Demudu, Occ: Administrative Officer, LIC of India, Pithapuram, against the proceedings No. (M) R.Dis.No.227/2003/C5, dated 24.07.2007 of the District Collector, Visakhapatnam, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes)-Regulation of Issue of Community Certificates Act, 1993 (Act No.16/1993) – Appeal Petition remanded for afresh enquiry – Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.25

Dated: 08.02.2019
Read the following:

1. Proceedings of the District Collector, Visakhapatnam, (M) R.Dis.No.227/2003/C5, dt.24.07.2007.
2. Appeal Petition filed by Sri Ch. Appa Rao S/o Late Demudu, Admn. Officer, LIC of India, Pithapuram Received through M(TW&RIAD), dt.21.8.2007.
3. Govt. Memo No.5897/CV.2/2007, dt.17.9.2007.
4. From the District Collector, VSP letter No. (M) Rc.No.280/2011/C5, dated: 22.06.2015.
5. Govt. Memo No.5897/CV.2/2007, dated 02.05.2018 & 04.07.2018.
6. Vakalath filed by Sri M. Srinivasa Rao & M. Vasudeva Rao, advocates, dated 21.07.2018.
7. Govt. Memo No.5897/CV.2/2007, dated: 07.08.2018 & 17.09.2018.

ORDER:

In the reference 1st read above, the District Collector, Visakhapatnam has issued orders cancelling ST-Yerukula caste certificate obtained from the then Mandal Revenue Officer, Visakhapatnam in the year 1996 by Sri Chiriki Apparao, S/o Demudu.

2. In the reference 2nd read above, Sri Ch. Appa Rao, S/o late Demudu, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, Visakhapatnam. After examining the said Appeal Petition, Government have admitted the Appeal Petition and granted stay on the proceedings of the District Collector, Visakhapatnam and called for the parawise remarks and connected records from the District Collector, Visakhapatnam in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, Visakhapatnam has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Ch. Appa Rao, S/o late Demudu.

4. The said Appeal Petition has been posted for hearing on 19.05.2018, 21.07.2018, 18.08.2018 & finally on 06.10.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 5th & 7th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. In the reference 6th read above, by Sri M. Srinivasa Rao & M. Vasudeva Rao, advocates have filed Vakalath before the Appellate Authority on 21.07.2018. The appellant/ the Counsel for the appellant have attended for final hearing scheduled on 06.10.2018 and argued the case.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, Visakhapatnam and proceedings of the District Collector, Visakhapatnam, dated 24.07.2007, the Appellate Authority is observed that :

- I. The appellant in his grounds has stated that he belongs to YERUKULA S.T. community and hails from Jangareddy Gudem of West Godavari District and after conducting due enquiry, the MRO has issued Community Certificate, on 30.06.1996 in favour of him. He has stated that the District Level Scrutiny Committee, the principles of Natural Justice and without conducting any enquiry closed the enquiry on 07.01.2005 & and submitted a report to the Dist. Collector, Visakhapatnam. Thereafter the Dist. Collector issued a Notice dated:28.1.2005 and he has submitted his explanation dt:18.02.2005 to the Dist. Collector, Visakhapatnam, but he has without considering his explanation or conducting any enquiry passed orders dt: 24.07.2007 and also issued a notification in the Gazette to the effect that he does not belongs to "Yerukula" S.T. community .

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- II. Further he has also stated that the alleged report of the MRO is without issuing any notice and without conducting any enquiry and his mother died in his childhood itself when he was aged about (2) years. So, the question of examining his mother by the MRO, Pendurthi is false. Further, it appears that the MRO has examined the person by name Siriki Appa Rao and came to the conclusion that he belongs to Koppala Velama. So, the MRO might have examined the people with the surname "Siriki" and submitted the report, wherein his surname is "Chiriki" and belongs to "Yerukula" ST Community. Finally he has submitted that he would given an opportunity to produce documents in support of ST-Yerukula community claim.
- III. The District Level Scrutiny Committee has observed that based on the report of the Additional R.I., Pendurthi, & the statements recorded by the Panchayat Secretary, Gram Sarpanch, Talayari of Goraplli Village and others they have deposed that Sri Chiriki Aparao S/o Demudu belongs to Koppulavelama(BC) caste but not Yerukula caste. Based on the report of the MRO, Pendurthi, all the brothers of the appellant are having marital relations with Koppula Velama Community, on the local enquiry and depositions given by the Village people and M.P.H.S. Data, the appellant does not belong to ST Yerukula community and belongs to Koppula Velama community. Before the DLSC, the petitioner is silent regarding the study certificate issued by the AMAL College, Anakapalli Dt:10-12-1979 that he belongs to Koppulavelama(BC) Caste. The petitioner's caste is recorded in his entire School Records as Koppulavelama (BC). The petitioner is only trying to mislead the Hon'ble Appellate Authority by stating that Sri Siriki Apparao S/o Demudu is different from Sri Chiriki Apparao S/o Demudu. Further it is observed that the appellant has not produced any valid documents that his forefathers belong to Jangareddy Gudem and they belong to ST-Yerukula community claim. Finally, based on the findings of the DLSC, the District Collector has cancelled the appellant ST-Yerukula certificate
- IV. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.
- V. The Appellate Authority has observed that during the course of arguments, the appellant submitted his arguments have stated that his caste status was already enquired in the year 1989 by the revenue officials and found that he belongs to ST community which was confirmed by the then Revenue Divisional Officer vide his report in RC.No.5662/89 dated 09-10-1989 and fresh enquiry not necessary and there is violation of the principles of nature justice while conducting the fresh enquiry as the lower authority failed to consider the crucial documents and not even referred the earlier report and his forefathers belong to ST community and his father was alive when the caste enquiry conducted in year 1989 and his marriage is a love marriage and there is no occasion to dispute his social status and he is Yerukula and prayed to set-aside the impugned order of the lower authority. On verification of the arguments and the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that admittedly earlier an enquiry conducted with regard to the caste of the appellant and as per the observation of the lower authority the same is conducted only with reference to the authentic of the certificate but not the enquiry of the social status of the appellant and the present enquiry is for the purpose of the caste verification and found the appellant not belongs to ST Yerukula. Under the said circumstances it is just and necessary to give an opportunity to the appellant to produce the documents to substantiate his contention to prove his social status as the burden lies upon the climate who claims the caste otherwise there is violation of principles of natural justice. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority failed to observe the finding of the concerned above.

6. The Government, in exercise of the powers conferred under Section 8(1) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the Appeal Petition filed by Sri Ch. Appa Rao, S/o late Demudu is hereby allowed partly by setting aside the proceedings of the District Collector, Visakhapatnam issued vide reference 1st cited and the matter remanded to the District Collector for afresh enquiry and give opportunity to the appellant and to pass order according to law within three months from the date of receipt of the order independently without influence of the observations made in the order.

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7. The District Collector, Visakhapatnam is directed to take necessary consequential action in the matter.

8. The records (containing (M) R.Dis.No.227/2003/C5, NF: pages 17 & CF: 138 pages) received from the District Collector, Visakhapatnam through the reference 4th read above, are returned herewith in original to the District Collector, Visakhapatnam and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**R.P. SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT**

To
The Collector & District Magistrate, Visakhapatnam District.
(with original records) (BY RPAD)

Sri Chiriki Apparao S/o Late Demudu,
Adminstrative Office, LIC of India,
Pithapuram, East Godavari District.

Sri M. Srinivasa Rao,
M. Vasudeva Rao, Advocates,
C-3, Swathi Sikhara Apartments, Plot No.23, New Vivekananda Statue,
Huda Complex, Saroornagar, Kothapeta, Hyderabad.

The Branch Manager,
LIC of India, Shipyard Branch,
Visakhapatnam

Copy to:

The Director, TCR& TI, AP, Amaravati.
The PS to M(TWE&HFW).
The PS to Principal Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER